

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

WILLIAM L. ,

Plaintiff,

v.

Civil Action No. 2:22-cv-00543

KILOLO KIJAKAZI, Acting
Commissioner of Social
Security,

Defendant.

ORDER

Pending before the court is the Proposed Findings and Recommendation ("PF&R") of United States Magistrate Judge Cheryl A. Eifert, entered on September 12, 2023. ECF No. 16.

The Magistrate Judge recommends granting plaintiff's request for judgment on the pleadings, ECF No. 13, to the extent that it requests remand of the Commissioner's decision; denying defendant's request to affirm the decision of the Commissioner, ECF No. 14; reversing the final decision of the Commissioner; remanding this matter pursuant to sentence four of 42 U.S.C. § 405(g) for further administrative proceedings consistent with these recommendations; and dismissing this action from the docket of the court.

In reviewing a PF&R, the court "may accept, reject, or modify, in whole or in part, the findings or recommendations

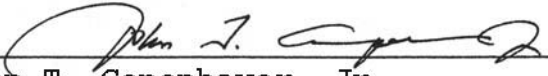
made by the magistrate judge." 28 U.S.C. § 636(b)(1). Upon the filing of an objection to a PF&R, the court "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." Id. Failure to object to a PF&R constitutes waiver of de novo review, in which case the court reviews the PF&R for clear error. See Fed. R. Civ. P. 73 Advisory Committee notes.

There being no objections to the PF&R, it is ORDERED that the PF&R be, and hereby is, adopted by the court and incorporated herein. It is, therefore, ORDERED as follows:

1. The plaintiff's request for judgment on the pleadings, ECF No. 13, to the extent that it requests remand of the Commissioner's decision be, and hereby is, GRANTED;
2. The defendant's request to affirm the decision of the Commissioner be, and hereby is, DENIED;
3. The final decision of the Commissioner be, and hereby is, REVERSED;
4. This matter be, and hereby is, REMANDED pursuant to sentence four of 42 U.S.C. § 405(g) for further administrative proceedings consistent with the PF&R;
5. This action be, and hereby is, DISMISSED from the court's docket.

The Clerk is directed to transmit copies of this order to any unrepresented parties, all counsel of record, and the United States Magistrate Judge.

ENTER: October 11, 2023



John T. Copenhaver, Jr.
Senior United States District Judge